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Faxed to 571-273-8300

September 17, 2006

Application/Control Number: 09/856,228

Art Unit 3722 Applicant: Linden, Craig L

Mail Stop: TECH CENTER
Commissioner for Patents
Alexandria, VA 22313-1450

From: Craig L. Linden, Inventor, Applicant and and Petitioner

Re: Petition to Withdraw the Finality of the Final Office Action and Notice of Similar U.S. Applications and a U.S. Patent

Craig L. Linden
1335 Midway Drive
Alpine, CA 91901 USA

Work Phone (619) 390-6304 Mobile (619) 301-3555 Fax 619) 390-6344

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PETITION TO WITHDRAW THE FINALITY OF THE FINAL OFFICE ACTION MAILED JANUARY 22, 2005, AND NOTICE OF SIMILAR U.S. APPLICATIONS AND A U.S. PATENT

Inventor: Linden, Craig L.

Application Number: 09/856,228

Filed: May 16, 2001

Art Unit: 3722

Examiner: Jamila O. Williams

September 17, 2006

Attention: Technological Center Group Director

Mail Stop Tech Center
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
VIA FACSIMILE (571) 273-8300

Dear Technology Center Group Director:

Being the inventor and writer of the above application, I pray that you'll grant this request to withdraw the finality of the Final Office Action mailed to me on January 22, 2005.

Following the Final Office Action, I submitted two amendments which were not accepted and I paid for two time extensions, and timely filed a third amendment/Declaration on May 15, 2005. I called Examiner Williams on May 25, 2005, and she told me that no further action was due on my part until she received, reviewed and responded. After numerous failed attempts to reach Ms. Williams, I wrote to Supervisor Banks on June 22, 2005 but received no response. However, later when I talked to Supervisor Ashley, who took over the art unit, he said that he had discussed my letter with the former Supervisor Banks. Mr. Ashley also suggested that I wait to hear from Examiner Williams.

One year later, in May 2006 I received a Notice of Abandonment, and on July 19, 2006, I petitioned the Office of Petitions for its Withdrawal under 37 CFR 1.181 (a). I received an August 14, 2006 letter dismissing my petition. The letter suggested I file a Petition based under 37 CFR 1.137 (b) based on unintentionally abandonment. However, the petition would have required a proper Reply, which under the circumstances seemed/seems impossible. So, I called Mr. Chris Congo on August 25, 2006 to discuss other options, and after listening to my story he suggested I petition with your office. Like Mr. Ashley, he felt that my Application may belong in the Telecommunications Art Unit.

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PETITION TO WITHDRAW THE FINALITY OF THE FINAL OFFICE ACTION MAILED JANUARY 22, 2005, AND NOTICE OF INTERFERRING U.S. APPLICATIONS AND U.S. PATENT

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I never received the phone interview about my May 15, 2006, amendment, which Examiner Williams promised, nor any written explanation or evaluation of why my amendment was not accepted. Except, along with the Notice of Abandonment, there was an attached short statement by Examiner Williams (which I believe is erroneous) to the effect that my application contained no advancements in the art. This surprised me because Ms. Williams had, up to then, only rejected/objected to the way my claims were composed, and she wrote that I needed to make them clearer to distinguish my invention from the remaining sole prior art patent by Dan Kikinis, U.S. number 5,746,602. I had previously successfully overcame the other prior art patent related rejections. She also required changes in the drawings, specification and abstract, which I made. I don't understand the years of prosecution if she simply believed my application had no new advancements. Regarding the Kikinis '602 patent (in my opinion) I clearly distinguished the difference in my original specification, and early in the prosecution and then again in my March 27, March 30 and May 15, 2005' Reponses.

Several times I pleaded for Examiner Williams' help in constructing even one proper allowable claim but I did not receive any help. She told me was overworked and had too many other cases. However, her official reason for not helping me came with the Notice of Abandonment, in which as I mentioned she stated there was nothing new in my application. It is also possible that something in my March-May, 2005 responses upset her because by that time I could not seem to change her mind regardless of my logical arguments. I even mentioned the specification's advancement in tactile-enhanced communications for mobile phones in my May 15, 2006, response. Nothing helped.

Next, I called her supervisor, Mr. Ashley, and I believe because of my many pleas for two-way communication following my amendment, he was surprised that an abandonment notice was mailed. He suggested I petition to have the holding of abandonment withdrawn. He agreed with me that perhaps my application was in the wrong art unit. However, he reminded me that he was no longer Supervisor of the Education Art Unit, and therefore his suggestions were unofficial. I filed the petition and requested someone review for the correct art unit.

I grew up with my grandfather being the FCC Chief Engineer for the seven western states. I used to work with him in his home workshop in Los Angeles and visit him in the

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Federal Building. I grew up and in the 1980s started thinking about remote physical communications. My wife and I would experiment using simple devices and I became convinced that simulated touch, especially when combined with audio and/or visual communications "felt" real. When I searched for prior art, I found nothing about simple, inexpensive devices and methods for transceiving simulated live human touch between two people. I disclosed the entire prior art that I had found in the PCT application, which was the basis for the U.S. National application. Later, I learned I could not prosecute the foreign applications as a layman, and for financial reasons, I had to let them go.

Examiner Williams is in the Educational Art Unit, and when she asked me to remove the word "transceiver" from the specification I thought it an odd request. I complied as I wanted to make any changes necessary for an allowance. However, growing up around the telecommunications field, the concept of two-way RF of any kind simply meant some form of radio frequency transceiving. This should have been an early clue that maybe my application was in the wrong art unit – but until I received the Notice of Abandonment, I did not realize it was in the Educational Art Unit. I supposed it is because one of my embodiments is a pair of teddy bears that can "transceive" live, digitally-proportional human hugs. Apparently, my application was assigned to the same educational art unit of the Kikinis patent 5,746,602, because he discloses dolls that have movable limbs. However, the movements are only available via company pre-programmed memory (only pre-scripted movements) no clue to hugs, let alone live two-way hugs and hand shakes that I disclose.

While I am not opposed if there are reasons unbeknown to me why my application was assigned to the Educational Art Unit, I believe most the third-party applications, particularly related my mobile phone and other mobile devices that transceive and/or have a new tactile-related functions, have been assigned to the Telecommunications Art Unit 455. I am not necessary opposed to having my application being reviewed and/or prosecuted in the current art unit should that be your decision as long as all relevant art is considered.

I am aware of a few U.S Patent Applications and one issued U.S. patent, all of which I believe my application should have blocked from issuing (especially if mine had been

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assigned to the Telecommunications Art Unit). My PCT application was published February 8, 2001 with the International Publication Number WO 01/09863, and the various versions of my Website (www.RealTimeTouch.com) and my older press releases and related articles which have been online since the year 2000. While not yet knowing all the pertinent applications and/or patents, the following are important examples which were assigned to the Telecommunications Art Unit:

U.S. Patent 6,963,762 issued November 8, 2005, filed January 31, 2002, "Mobile phones using tactile icons". Here the inventors were allowed claims of transceiving non-operational tactile information, including simulated touch, puffs of air, electric, etc. These embodiments are include my application and/or on my Website and/or in my internationally published press releases and articles. Please see RealTimeTouch.com and Google my RealTimeTouch and my name.

U.S. Patent Application 20050181827, filed February 13, 2004, "Touch for feel device for communicating with mobile wireless phone or terminal". Here, the inventors claim a pressure sensitive device for transceiving touch by two or more users. This is the same as some of my embodiments and as discussed online and in my press releases and published articles.

U.S. Patent Application 20020128048, filed March 12, 2001, "Mobile phone featuring audio-modulated vibrotactile module". Here, the inventors claim enrichment of audio communications by adding a tactile module. My specification speaks of enhancing audio of mobile phones with tactile information.

U.S. Patent Application 20060171553, filed February 3, 2005, "Gaming headset vibrator". The inventors claim a headset capable of vibration for enhancing game play. My application mentions enhancing game play and audio with tactile and in combination with tactile enhanced speakers, and I believe one or more of my provisional applications mention headphones, which in any case are essentially wearable speakers. In any case I speak of integration of tactile devices with various types of devices, including speakers.

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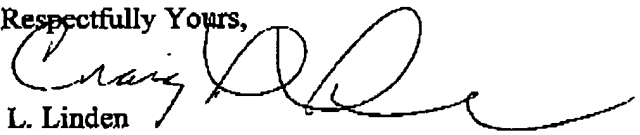
An additional important reason for citing the above listed issued patent and applications, is that these references should lend credence to my statement regarding why Examiner Williams' statement that there was nothing new in my application, was erroneous. Should her statement be erroneous, then the Final Office Action and her later non-acceptance of my amendment(s) were inappropriate actions.

Inexperienced layman applicants, such as I should be, in my opinion, matched with very experienced examiners. Should my petition be granted, I request, in addition to being sure we have the most appropriate art unit – that I am granted the privileged to work with a senior level examiner – an examiner not overloaded with other cases. I believe among the original ideals of the late 1700's patent office were to give personalize help to laymen inventors. I have obtained a few patent grants beginning in 1975, with the help of patent attorneys who are now deceased or retired.

Invariably, these attorneys would mention how very important the phone interviews and verbal discussions were with the examiners – the verbal give-and-take of arriving at grantable claims. I feel that I have been completely shorted in this area – I request another chance to allow the system work. I just hope to be granted a fair chance to salvage as much as possible from my creations.

Please approve this request, as I feel it unfair and inappropriate, under the circumstances, to require I file a fee-based petition for any type of revival. While I assume guilt for being an inexperienced inventor applicant, I pray, for at least the example of reasons given above, that the USPTO assumes part of the responsibility for this multi-year journey. However, should a reasonable fee be required, please let me know I as I will pay it to be allowed to continue the prosecution of this application.

Very Respectfully Yours,



Craig L. Linden
Inventor and Applicant

CERTIFICATE OF TRANSMISSION (37 CFR 1.8(a)I hereby certify that this correspondence with one cover page (six pages total) was transmitted on

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September 17, 2006 and is being again transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date: September 17, 2006 **Signed**_____
Craig L. Linden